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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,852	12/22/2000	James R. Patterson	A-5378	3665

2147 7590 03/04/2002

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EXAMINER

REIS, TRAVIS M

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 03/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/747,852

Applicant(s)

PATTERSON, JAMES R.

Examiner

Travis M Reis

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: "Figure 2" on page 2 line 27 should be ---Figure 4--- since Figure 2 does not show flange 18 or its recesses 22, 24, & 26. "Figure 2" on page 3 line 1 should be ---Figure 4---, since Figure 2 does not show bar magnet 16, slot 34, or plate 40. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 & 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Owens, Jr. (U.S. Patent 4442610).

With reference to claims 1-3, Owens Jr. discloses a tool (10) for inspecting the accuracy of an installed frame structure (40), the tool having a magnet (12) for removable attachment to a frame, the tool also having a plumb bob (38) for gauging the condition of the frame in relation to a true status, the gauging means including means for assessing the true status of a frame in relation to 3-dimensional space (Figure 1).

With reference to claim 5, Owens Jr. discloses the gauging means includes means for gauging the true condition of installed steel door frames (col. 1 lines 52-54).

4. Claims 1-3, 5, 6, 9-10, 12, & 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Walters et al. (U.S. Patent 5933974).

With reference to claims 1-3, Walters et al. disclose a tool (1) for inspecting the accuracy of an installed frame structure (16), the tool having a magnet (10) for removable attachment to a frame, the tool also having a plumb bob for gauging the condition of the frame in relation to a true status (22), the gauging means including means for assessing the true status of a frame in relation to 3-dimensional space (Figure 2).

With reference to claims 6, 9-10, 12, & 14, Walters et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-3, & 5 including the tool (10) for inspecting the accuracy of installed steel door frames (16), the tool having a base (28) with a magnetic attachment (10), the magnetic bars having marginal steel plates, the bar and plates having a terminal portion defining a first reference plane, the tool further having a first flange (7) extending from the base, the flange having an outer surface defining a second reference plane, a second flange (8) extending from the base, spaced from the first flange and being parallel to the reference plane, the second flange having an aperture (18) therethrough, the aperture accepting the string (20) of a plumb bob (22), the tool cooperating with a plumb bob and string received in the aperture, when attached to an installed steel door, to gauge the accuracy and true of the installed steel door in relation to three dimensional space, including additional calibration and gauging means (7,14) (Figure 1).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters et al.

Walters et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-3, 5, 6, 9-10, 12, &14, including one magnetic bar, but not two. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide use two magnetic bars, since it has been held that forming in two pieces and separate an article which has formerly been formed in one piece involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 ( 1893 ).

7. Claims 4, 11, 13, & 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters et al. in view of Lee et al. (U.S. Patent 5426860).

With respect to claim 4, Walters et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-3, 5, 6, 9-10, 12, &14, but lack means for storing the plumb bob within the tool.

Lee et al. discloses a plumb bob assembly (10) with a storage housing (14) for the plumb bob (20) (Figure 2). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the storage housing

disclosed by Lee et al. to the tool disclosed by Walters et al. in order that the plumb bob will be secure when not in use.

With reference to claims 4, 11, 13, 15, & 16, Walters et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-3, 5-10, 12, & 14, but lack means for storing the plumb bob within the tool, the means including the first flange having a recess, the first and second flanges being spaced to receive a plumb bob stored therein and the recesses receiving the string of a plumb bob wound thereon.

Lee et al. discloses a plumb bob assembly (10) with a storage housing (14) for the plumb bob (20) which also around which the cord (16) may be wound (Figure 2) (Abstract). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add a recess and cord winding as taught by Lee et al. to modify the first flange of the tool disclosed by Walters et al. in order that the plumb bob will be removed from the other operations of the tool when not in use.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Juhasz discloses a magnetic plumb bob which locks itself into place (U.S. Patent 5195248). O'Neil discloses plumb bob and cooperating reel with magnetic attachment means and a webbed plumb bob (U.S. Patent 5392522). O'Neil also discloses a plumb bob reel also with magnetic attachment means in U.S. Patent 5323539. Gast discloses a chalk line apparatus with magnetic attachment means and plumb bob (U.S. Patent 5163230). Doyle discloses a plumb bob and line with a rotating axel (GB 2234067A).


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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (703) 305-4771. The examiner can normally be reached on 8:00--5:00 Monday--Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Travis M Reis  
Examiner  
Art Unit 2859

  
Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800

tmr  
February 27, 2002